

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PAUL MORRIS,

Plaintiff,

No. C 11-3712 PJH

v.

ORDER OF DISMISSAL

COMCAST OF MARIN and LIBERTY
MUTUAL,

Defendants.

On November 9, 2011, this court dismissed without prejudice plaintiff's complaint. Plaintiff was advised to file an amended complaint alleging violation of his rights pursuant to ERISA no later than March 6, 2012, after having first exhausted administrative remedies by February 7, 2012. Nearly two months have passed since the deadline for filing an amended complaint and no such complaint has been filed.

The court has considered the five factors set forth in Malone v. United States Postal Serv., 833 F.2d 128, 130 (9th Cir. 1987), and has determined that notwithstanding the public policy favoring the disposition of actions on their merits, the court's need to manage its docket and the public interest in the expeditious resolution of the instant litigation require dismissal of this action. In view of plaintiff's lack of response to this court's prior order, the court finds there is no appropriate less drastic sanction.

Accordingly, this action is DISMISSED with prejudice pursuant to Fed. R. Civ. Pro.

41(b) for plaintiff's failure to prosecute.

IT IS SO ORDERED.

Dated: April 27, 2012



PHYLLIS J. HAMILTON
United States District Judge